

**UNITED STATES TAX COURT**  
**WASHINGTON, DC 20217**

ROBERT A. CONLON,

Petitioner,

V.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

[illegible]

Docket No. 21091-09.

## ORDER AND DECISION

This case was set for trial at the October 18, 2010, Dallas, Texas trial session. On November 19, 2010, the Court filed respondent's motion for entry of decision. On November 26, 2010, the Court ordered petitioner to file, on or before December 17, 2010, a written notice of objection to respondent's motion. On November 30, 2010, the Court filed petitioner's objection to respondent's motion.

Petitioner and respondent's counsel appeared at the October 18, 2010, Dallas, Texas trial session. Following calendar call, but prior to trial, the parties informed the Court that they had reached a settlement. The terms of the settlement agreement were read into the Court's record.

Respondent mailed petitioner the proposed decision document on October 22, 2010, and requested that petitioner return the decision document by October 29, 2010. Petitioner did not return the decision document, and did not respond to respondent's telephone calls. Respondent, not having received communication from petitioner, submitted the motion for entry of decision. In his objection to respondent's motion, petitioner contends that he never agreed to the settlement. The Court's record, however, reflects petitioner's affirmative agreement to the settlement.

Absent a lack of formal consent, mistake, or fraud, this Court enforces a settlement agreement reached prior to trial if such agreement causes the Court to vacate the trial date. See Dorchester Indus., Inc. v. Commissioner, 108 T.C. 320, 335 (1997), affd. without published opinion 208 F.3d 205 (3d Cir. 2000); Stamm Intl. Corp. v. Commissioner, 90 T.C. 315, 321-322

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(1988). Petitioner has failed to establish a lack of formal consent, mistake, fraud, or any similar ground. Upon due consideration of the foregoing, and for cause appearing in the transcript of the proceeding, it is

ORDERED that respondent's motion for entry of decision, filed November 19, 2010, is granted. It is further

ORDERED AND DECIDED that there is a deficiency in income tax due, computed without considering prepayment and withholding credits, from petitioner as follows:

<u>Year</u>	<u>Deficiency</u>	<u>IRC §6651(a)(1)</u>	<u>IRC §6654</u>
2004	\$15,169.00	\$1,374.00	\$275.00
2006	\$19,042.00	\$2,244.00	\$112.00

**(Signed) Maurice B. Foley**  
**Judge**

ENTERED: **JAN 07 2011**